Congress of the United States
House of Representatives
Washington, DC 20515

June 25, 2020

The Honorable Andrew Wheeler
Administrator
Environmental Protection Agency
1301 Constitution Ave. NW
Washington, D.C., 20460

Re: Docket ID No. EPA-HQ-OAR-2015-0072

Dear Administrator Wheeler:

We write to submit comment on the Environmental Protection Agency's (EPA) proposed rule on the Review of the National Ambient Air Quality Standards (NAAQS) for Particulate Matter (PM) released on April 14, 2020.[1]

EPA has repeatedly sidelined independent scientific advice in developing a policy proposal with such far-reaching consequences for the American people. The PM NAAQS is perhaps the most consequential single-pollutant regulation that EPA can promulgate from a human health perspective. The United Nations Environment Programme (UNEP) found that, in 2016, exposure to small particulates ($PM_{2.5}$) reduced average global life expectancy by one year.[2] In September 2019, EPA's own draft Policy Assessment for PM NAAQS concluded that the incumbent standards were too high to protect public health and should be lowered by as much as one-third.[3] Despite this finding and an overwhelming body of supporting scientific evidence, EPA is proposing to retain all PM standards at their current levels.

These actions are particularly dangerous during a global pandemic that attacks the respiratory system. As you know, recent studies have identified a preliminary link between a small increase in long-term exposure to $PM_{2.5}$ and the likelihood of death from COVID-19.[4] More generally, higher death rates have been observed among minority and low-income communities, underscoring that pre-existing economic and health disparities result from increased exposure to air pollution.[5]

This science further illustrates the impacts of PM and $PM_{2.5}$ on human health, and underscores the need for EPA and its seven-member Clean Air Scientific Advisory Committee (CASAC) to continue to have access to scientific expertise during its critical decision-making.

Unfortunately, this proposed rule appears to be the direct result of EPA's efforts to reduce the influence of independent scientific experts in developing NAAQS standards. On October 11, 2018, you dismissed without explanation the Integrated Review Panel (IRP) for

[1] https://www.federalregister.gov/documents/2020/04/30/2020-08143/review-of-the-national-ambient-air-quality-standards-for-particulate-matter
[2] https://www.unenvironment.org/news-and-stories/story/air-pollution-know-your-enemy
[3] https://www.epa.gov/sites/production/files/2019-09/documents/draft_policy_assessment_for_pm_naaqs_09-05-2019.pdf
[4] https://www.medrxiv.org/content/10.1101/2020.04.05.20054502v2.full.pdf+html
[5] https://www.hsph.harvard.edu/c-change/subtopics/coronavirus-and-pollution/

PM.[6] The PM IRP was a panel of two dozen experts that had been assembled for the specific task of advising EPA's CASAC in their review of the science underpinning PM NAAQS rulemakings. These supporting panels of experts have been used by EPA to enhance CASAC's guidance to EPA on PM for over 35 years.

In an April 11, 2019, letter, the chartered CASAC specifically requested that you reappoint the previous PM IRP.[7] The request was informed by CASAC's own recognition that it lacked adequate expertise, particularly in epidemiology, to evaluate and advise on the PM scientific assessments without outside help. You ignored that request and announced on July 25, 2019, that you would instead empanel a smaller, informal "pool of consultants" to give ad hoc advice to CASAC only upon written request of the CASAC Chair.[8] The public was given no opportunity to comment on the nominees for the pool of consultants, and the decisions on panel membership were apparently made by yourself and other political officials, rather than through vetting procedures used by the Science Advisory Board (SAB) Staff Office. Unlike the prior PM IRP, the pool of consultants is excluded from in-person deliberations with the chartered CASAC, and they are only allowed to provide advice on topics that are specifically requested in writing by the Chair of CASAC.

While your public justification for disbanding the original PM IRP was that it would help EPA meet its statutory obligations to promulgate a new PM NAAQS, the practical effect was simply to deny CASAC the expert assistance it had requested for a full ten months. Despite our Committees' requests, EPA never presented any justification for how disbanding the already-functioning PM IRP and replacing it with a new, handpicked slate would help EPA meet its statutory obligations more quickly without undermining its statutory requirement to provide a "thorough review of the criteria" for updates to the standard.[9] Further, members of the chartered CASAC remarked at their October 2019 meetings that it still lacked the epidemiological expertise it needed to complete its evaluation.[10]

We also note that EPA ignored CASAC's April 2019 request that EPA prepare a second draft Integrated Science Assessment (ISA) in order to allow for "meaningful independent scientific review" of the data relevant to understanding health impacts of PM.[11] The CASAC found that the first draft of the ISA included major "fundamental limitations," including a failure to consider study quality, a failure to review important scientific literature altogether, unclear discussions on causality, and unclear definitions. However, EPA did not produce a second draft to address these deficiencies and simply finalized the ISA in October 2019.[12]

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[6] https://www.eenews.net/stories/1060102455

[7] https://yosemite.epa.gov/sab/sabproduct.nsf/LookupWebReportsLastMonthCASAC/6CBCBBC3025E13B4852583D90047B352/%24File/EPA-CASAC-19-002+.pdf

[8] https://yosemite.epa.gov/sab/sabproduct.nsf/0/6CBCBBC3025E13B4852583D90047B352/%24File/EPA-CASAC-19-002_Response.pdf

[9] https://www.law.cornell.edu/uscode/text/42/7409

[10] https://yosemite.epa.gov/sab/sabproduct.nsf/bf498bd32a1c7fdf85257242006dd6cb/49FAF8892AD2D38285258473006D1F4A/$File/CASAC+PM+10-24-25-19+Minutes.pdf

[11] Ibid, April 11, 2019 CASAC letter

[12] https://www.epa.gov/naaqs/particulate-matter-pm-standards-integrated-science-assessments-current-review

EPA's repeated diminishment of the CASAC's resources and expertise during the promulgation of the PM NAAQS proposal is a clear effort to avoid scientific advice that might conflict with policy outcomes predetermined by political leadership at EPA. We are not persuaded by EPA's arguments that this was a necessary step to meeting Clean Air Act timelines for re-review. Furthermore, we would remind you that nowhere in the Clean Air Act did Congress direct EPA to subordinate its obligations to set standards with "an adequate margin of safety… to protect the public health," and the statutory role of CASAC, to those timelines.[13]

The scientific underpinning for EPA's proposed NAAQS for PM is in question, in part because of actions EPA has taken to weaken scientific integrity and the role of CASAC. We urge EPA to delay finalization of the PM NAAQS until the Agency can ensure the appropriate independent scientific advice is considered in setting health protective standards that meet the statutory requirement to protect public health with an adequate margin of safety. In particular, we urge EPA to consider the findings of the original CASAC Integrated Review Panel on the PM Integrated Science Assessment and Policy Assessment, developed during an independent exercise last fall.[14]

Please contact Priyanka Hooghan with the Committee on Science, Space, and Technology at 202-225-6375 or Jon Monger with the Committee on Energy and Commerce at 202-225-2927 with any questions.

Sincerely,

Eddie Bernice Johnson
Chairwoman
Committee on Science, Space, and Technology

Frank Pallone, Jr.
Chairman
Committee on Energy and Commerce

Bill Foster
Chairman
Subcommittee on Investigations and Oversight

Diana DeGette
Chair
Subcommittee on Oversight and Investigations

Mikie Sherrill
Chairwoman
Subcommittee on Environment

Paul Tonko
Chairman
Subcommittee on Environment and Climate Change

[13] 42 U.S.C. §§7401-7671q

[14] https://www.ucsusa.org/meeting-independent-particulate-matter-review-panel?_ga=2.42473381.1650518980.1589293002-2102903982.1588606846